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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,908	03/12/2004	Robert H. Dahla	CB-12	8300
	7590 07/30/200 E CORPORATION	EXAMINER		
7500 Rialto Boulevard			WITCZAK, CATHERINE	
Building Two, Suite 100 Austin, TX 78735-8532			ART UNIT	PAPER NUMBER
			3767	
			NOTIFICATION DATE	DELIVERY MODE
			07/30/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

intel_prop@arthrocare.com

	Application No.	Applicant(s)					
Office Action Comments	10/799,908	DAHLA ET AL.					
Office Action Summary	Examiner	Art Unit					
	CATHERINE N. WITCZAK	3767					
The MAILING DATE of this communication a Period for Reply	appears on the cover sheet with the	correspondence address					
A SHORTENED STATUTORY PERIOD FOR REI WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory perion of the reply within the set or extended period for reply will, by stated and the period for reply within the set or extended period for reply will, by stated and the period for reply will. Set any reply received by the Office later than three months after the material patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION 1.136(a). In no event, however, may a reply be liod will apply and will expire SIX (6) MONTHS frou tute, cause the application to become ABANDON	DN. timely filed m the mailing date of this communication. NED (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on 27	7 April 2009						
· _ ·	· · · · · · · · · · · · · · · · · · ·						
· <u> </u>	<i>,</i> _						
,—	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
closed in accordance with the practice unde	in Ex parte Quayle, 1000 O.B. 11,	400 O.G. 210.					
Disposition of Claims							
4)⊠ Claim(s) <u>1-20</u> is/are pending in the applicati	4)⊠ Claim(s) <u>1-20</u> is/are pending in the application.						
4a) Of the above claim(s) is/are without	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) <u>1-20</u> are subject to restriction and/	or election requirement.						
open community is the subject to restriction and/or stocker requirement.							
Application Papers							
9)☐ The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to t	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summa Paper No(s)/Mail 5) Notice of Informal 6) Other:						

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-19, drawn to an electrosurgical probe, classified in class 604, subclass 41.

II. Claim 20, drawn to a method of treating tissue, classified in class 604, subclass 500.

Inventions I and II are related as product and process of use. The inventions can be shown to be

distinct if either or both of the following can be shown: (1) the process for using the product as claimed

can be practiced with another materially different product or (2) the product as claimed can be used in a

materially different process of using that product. See MPEP § 806.05(h). In the instant case the method

can be used with a materially different device, and the device can be used in a materially different

process.

Restriction for examination purposes as indicated is proper because all these inventions listed in

this action are independent or distinct for the reasons given above and there would be a serious search and

examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent

subject matter;

(c) the inventions require a different field of search (for example, searching different

classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35

U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin

Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer

Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR

CANADA) or 571-272-1000.

/Catherine N Witczak/ Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767